

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DONA J. HOSKINSON, Individually, )  
as Surviving Spouse of LARRY L. )  
HOSKINSON, Deceased; and DONA J. )  
HOSKINSON and MICHAEL )  
HOSKINSON, as Co-Special )  
Administrators of the Estate of )  
of LARRY L. HOSKINSON, Deceased; )

Plaintiffs, )

vs. )

UNITED STATES OF AMERICA and )  
UNITED STATES DEPARTMENT OF )  
VETERANS' AFFAIRS )

Defendant. )

CASE NO. 8:21-cv-284

COMPLAINT

Plaintiff states as follows:

1. Plaintiff Dona J. Hoskinson is the surviving spouse of Larry L. Hoskinson, deceased, and that her home of record is in the State of Nebraska and she is a citizen of the State of Nebraska.
2. Plaintiffs Dona J. Hoskinson and Michael Hoskinson are the duly appointed Co-Special Administrators of the Estate of Larry L. Hoskinson, deceased, pursuant to Letters of Appointment of Co-Special Administrators issued by the County Court of Douglas County, Nebraska. That both Co-Special Administrators have their homes of record in the State of Nebraska and are citizens of the State of Nebraska.
3. That prior to his death on November 18, 2019, Larry L. Hoskinson had his home of record in the State of Nebraska and was a citizen of the State of Nebraska.

4. That the decedent, Larry L. Hoskinson, was a veteran of the United States Military, having served in the United States Army.

5. The United States Department of Veterans' Affairs is a federal agency within the meaning of FACA, 5 U.S.C. app. 2 §3(3) and is headquartered in Washington, D.C.

6. That this Court has jurisdiction in this matter based upon 28 U.S.C. §1331, as this action arises under federal law. That jurisdiction in this matter is further based upon 28 U.S.C. §1346(b) and 28 U.S.C. §§2671, 2680, commonly known as the Federal Tort Claims Act (FTCA).

7. Venue is proper in this jurisdiction as the Plaintiffs are residents of the State of Nebraska and the United States Department of Veterans' Affairs conducts business in the State of Nebraska.

8. As required by statute, Dona J. Hoskinson and Michael Hoskinson, as Co-Special Administrators of the Estate of Larry L. Hoskinson, deceased, presented their claim on Standard Form 95 with the Defendant by mailing a copy to the Tort Claims Department. This Tort Claim Form was received in a timely manner. That an Amended Tort Claim was further presented on Standard Form 95 by mailing a copy to the attorney of record handling the processing of Tort Claim. That the Amended Tort Claim was also received in a timely manner. A true and correct copy of the Amended Tort Claim set forth on Standard Form 95 is attached to this Complaint as Exhibit "A", which sets forth the basis of this Complaint.

9. The U.S. Department of Veterans Affairs denied Plaintiffs' claim, and Plaintiffs have filed this lawsuit within six months of receiving the U.S. Department of Veterans Affairs' Notice of Denial.

10. At all times material herein, Larry L. Hoskinson was not a member of the armed forces of the United States of America. Plaintiff was a veteran who was entitled to and who did receive benefits from the United States of America to include hospital care at the Department of Veterans Affairs located in Omaha, Nebraska.

11. In July of 2018, Larry L. Hoskinson underwent a CT scan of his chest at the Veterans Administration Hospital by Veterans Administration physicians. The CT scan showed a 15 mm nodule that was not noted in the report. Mr. Hoskinson had a history of lung issues and returned to the Veterans Administration in September of 2019.

12. On October 23, 2019, Larry L. Hoskinson underwent a repeat CT scan of his chest at the Veterans Administration Hospital by Veterans Administration physicians. The results of this CT scan indicated significant abnormality. It was determined that Mr. Hoskinson now had a 20 mm nodule with possible lymph node prominence nearby and required a follow up diagnostic procedure, i.e. a needle biopsy to determine possible malignancy.

13. On November 14, 2019, Larry L. Hoskinson was undergoing an outpatient right lung nodule biopsy, when a perforation or laceration occurred with the passage of the biopsy needle at or near the site of the nodule. Mr. Hoskinson was noted to have developed massive hemoptysis and went into cardiac arrest twice. Mr. Hoskinson required CPR twice, intubation, needle decompression of the right lung, and a bilateral chest tube was placed which drained approximately 1 – 1.5 L of blood from his lung and required 4 units of blood to be transfused. Mr. Hoskinson was then admitted to the ICU, but never regained consciousness and died on November 18, 2019.

14. That the agents and/or representatives of the United States of America who were

attending to the care and treatment of Larry L. Hoskinson were negligent in each of the following respects:

- a. By perforating or lacerating the right lung of Larry L. Hoskinson, causing him to lose a significant amount of blood and go into cardiac and respiratory arrest;
- b. By failing to properly note the nodule present in the lung of Larry L. Hoskinson when it was reflected on the CT scan in July of 2018, which prevented earlier intervention and therapy from being provided.

15. That as a direct and proximal result of the negligence of the agents and/or representatives of Defendant United States of America, the Estate of Larry L. Hoskinson suffered the following by way of damages:

- a. Pain and suffering of Larry L. Hoskinson prior to his death;
- b. Medical expenses
- c. Funeral expenses

15. That as a direct and proximate result of the negligence of the Defendant, as set forth above, Larry L. Hoskinson's spouse, Dona J. Hoskinson, has been deprived of the benefit of Larry L. Hoskinson's affection, aid, comfort, care, companionship, society, and support, including loss of consortium.

WHEREFORE, the Plaintiffs pray for judgment against the Defendant United States of America as follows:

- a. For special damages and general damages in the amount of \$2,000,000.00, and the costs of this action and

- b. For other damages that are deemed reasonable and proper.

DONA J. HOSKINSON, Individually as surviving spouse of LARRY L. HOSKINSON, Deceased; and DONA J. HOSKINSON AND MICHAEL HOSKINSON, as Co-Special Administrators of the Estate of LARRY L. HOSKINSON, Deceased;

By: 

E. Terry Sibbern #13826  
SIBBERNSEN LAW FIRM, P.C.  
444 Regency Parkway Dr. #300  
Omaha, NE 68114  
(402) 493-7221  
[terry@sibblaw.com](mailto:terry@sibblaw.com)